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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

WASYLCHAK, STEVEN R

ART UNIT PAPER NUMBER

3624

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. .

10/600,891

Applicant(s)

SPANGENBERG ET AL.

Examiner

Steven R. Wasylchak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08).
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-32 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 7-13, 20-22, 29- 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Sellers et al. (US 5,311,438).

CLAIMS:

1. A method for measuring a benefit of a business improvement, comprising operations of:

receiving actual performance information; / abstract(improvement as in

“developing new products”); Fig 83(S0093): PRODUCTION VARIANCE,

where variance is the difference between actual and estimated or planned or a standard); col 77, L 61-65; col 78, L 55 to col 79, L 13

storing the actual performance information in a storage device; / claim 15 b);

fig 1B(108); col 3, L 14-36

retrieving the actual performance information; and/ col 78, L 55 to col 79, L 13

(display indicates retrieval)

calculating the benefit of implementing the business improvement by

comparing the actual performance information to estimated performance

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information./ Fig 83(US0093): PRODUCTION VARIANCE, where variance is the difference between actual and estimated or planned or a standard); col 77, L54-65 (see "projected" as estimated and "actual usage"); col 78, L 55 to col 79, L 13

7. The method of claim 1 wherein the operation of calculating the benefit of implementing the business improvement comprises calculating an actual cost savings./ col 115, L 63-64 (positive cash flows)

8. The method of claim 1 wherein the operation of calculating the benefit of implementing the business improvement comprises calculating an actual revenue increase./ col 115, L 63-64 (positive cash flows)

9. The method of claim 1 wherein the actual performance information comprises a time associated with a predefined event./ refer to claim 6: payback period

10. The method of claim 2 wherein calculating the actual return-on-investment comprises operations of:

determining a first profitability figure over a selected time period using the actual performance information;

determining a second profitability figure over a length of time equal to the selected time period using the estimated performance information;

determining a profitability difference between the first profitability figure and the second profitability figure; and

subtracting a cost of the improvement from the profitability difference./all refer to col 113, L 44-58; col 78, L 54 to col 114, L13

11. The method of claim 1 further comprises an operation of entering the estimated information via a Graphical User Interface./fig 24; col 91, L7-22

12. The method of claim 1 wherein the estimated information is retrieved from one or more logistic information systems./fig 51-84; fig 2G

13. An apparatus measuring a benefit of a business improvement, comprising:
an interface for receiving actual performance information;

a storage device for storing the actual performance information and for storing estimated performance information;

a processor for retrieving the actual performance information and the estimated performance information and for calculating the benefit using at least the actual performance information and the estimated performance information./all refer to claim 1 above

20. The apparatus of claim 14 wherein calculating the actual return-on-investment comprises:

determining first profitability figure over a selected time period using the actual performance information;

determining a second profitability figure over a length of time equal to the selected time period using the estimated performance information;

determining a profitability difference between the first profitability figure and the second profitability figure; and

subtracting a cost of the improvement from the profitability difference./ refer to claim 1

21. The apparatus of claim 14 wherein calculating the actual return-on-investment comprises:

determining a performance difference between actual performance information taken over a predetermined time period and estimated performance information estimated over a length of time equal to the predetermined time period;/col 98, L 24-60;

calculating a profitability difference over the selected time period using the performance difference; and subtracting a cost of the improvement from the profitability difference./ col 113, L 44-59.

22. A signal-bearing medium tangibly embodying a program of machine-readable instructions executable by a digital processing apparatus to perform a method for measuring a benefit of a business improvement, said method comprising operations of:

receiving actual performance information;

storing the actual performance information in a storage device; retrieving the actual performance information; and

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calculating the benefit using at least the actual performance information and estimated performance information./ all refer to claim 1 above

29. The signal-bearing medium of claim 24 wherein calculating the actual return on-investment comprises operations of:

determining a first profitability figure over a selected time period using the actual performance information;

determining a second profitability figure over a length of time equal to the selected time period using the estimated performance information;

determining a profitability difference between the first profitability figure and the second profitability figure; and

subtracting a cost of the improvement from the profitability difference./ all refer to claim 10

30. The signal-bearing medium of claim 24 wherein calculating the actual return on-investment comprises operations of:

determining a performance difference between actual performance information taken over a predetermined time period and estimated performance information estimated over a length of time equal to the predetermined time period;

calculating a profitability difference over the selected time period using the performance difference; and

subtracting a cost of the improvement from the profitability difference./ all refer to claim 1 above

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31. A method for measuring a benefit of a business improvement, comprising operations of:

storing a first set of actual performance information prior to implementation of the business improvement;

storing a second set of actual performance information after implementation of the business improvement;

retrieving the first set and the second set of actual performance information; and calculating the benefit of implementing the business improvement by comparing the first set and the second set of actual performance information./refer to claim 1 above; mere multiplicity is not novel

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-6, 14-19, 23-28, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sellers et al (US 5,311,158) and in view of the Dictionary of Business Terms.

CLAIMS:

2. Sellers discloses the operation of calculating the benefit of implementing the business improvement comprises calculating an return-on-investment of the business improvement./ col 113, L 44-49. Sellers

fails to teach actual return-on-investment. However, the Dictionary of Business Terms teaches actual return-on-investment (p. 594:ROI). It would have been obvious to one of ordinary skill in the art to use this limitation for the advantage of establishing a variance.

3. Sellers discloses the operation of calculating the benefit of implementing the business improvement comprises calculating an total cost of ownership./ col 113, L 50-60; col 114, L 13-15, where investments represent the total cost of ownership. Sellers fails to teach actual total cost of ownership. However, the Dictionary of Business Terms teaches actual total cost of ownership/ p. 354: investment. It would have been obvious to one of ordinary skill in the art to use this limitation for the advantage of establishing a variance.

4. Sellers discloses the operation of calculating the benefit of implementing the business improvement comprises calculating an net present value./col 113, L 44-59. Sellers fails to teach actual net present value. However, the Dictionary of Business Terms teaches actual net present value/ p.451. It would have been obvious to one of ordinary skill in the art to use this limitation for the advantage of establishing a variance.

5. Sellers discloses the operation of calculating the benefit of implementing the business improvement comprises calculating an internal rate of return./ col 113, L 44-59. Sellers fails to teach actual internal rate of return. However, the Dictionary of Business Terms teaches actual internal rate of return / p. 349. It would have been obvious to one of ordinary skill in the art to use this limitation for the advantage of establishing a variance.

6. Sellers discloses the operation of calculating the benefit of implementing the business improvement comprises calculating an payback period./ col 113, L 44-59. Sellers fails to teach actual payback period. However, the Dictionary of Business Terms teaches actual payback period / p. 499. It would have been obvious to one of ordinary skill in the art to use this limitation for the advantage of establishing a variance.

14. The apparatus of claim 13, wherein the benefit comprises an actual return-on investment of the improvement./refer to claim 2

15. The apparatus of claim 13 wherein the actual performance information comprises a time associated with a predefined event./ refer to claim 9

16. The apparatus of claim 13, wherein the benefit comprises an actual total cost of ownership of the improvement./refer to claim 3

17. The apparatus of claim 13, wherein the benefit comprises an actual net present value of the improvement./refer to claim 4

18. The apparatus of claim 13, wherein the benefit comprises an actual internal rate of return of the improvement./refer to claim 5

19. The apparatus of claim 13, wherein the benefit comprises an actual payback period of the improvement./refer to claim 6

23. The signal-bearing medium of claim 22 wherein the actual performance information comprises a time associated with a predefined event./ refer to claim 15

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24. The signal-bearing medium of claim 22 wherein the operation of calculating the benefit comprises the operation of calculating an actual return-on-investment./ refer to claim 2

25. The signal-bearing medium of claim 22 wherein the operation of calculating the benefit comprises the operation of calculating an actual total cost of ownership./ refer to claim 3

26. The signal-bearing medium of claim 22 wherein the operation of calculating the benefit comprises the operation of calculating an actual net present value./ refer to claim 4

27. The signal-bearing medium of claim 22 wherein the operation of calculating the benefit comprises the operation of calculating an actual internal rate of return./ refer to claim 5

28. The signal-bearing medium of claim 22 wherein the operation of calculating the benefit comprises the operation of calculating an actual payback period./ refer to claim 6

32. The method of claim 31, wherein the benefit is selected from the group consisting of an actual return-on-investment, an actual total cost of ownership, an actual net present value, an actual internal rate of return, and an actual payback period./ refer to claims 3,4,5


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This action is **NON-FINAL**. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R. Wasylchak whose telephone number is (703) 308-2848. The examiner can normally be reached on Monday-Friday from 8:30 a.m. to 5:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1065. The fax number for Art Unit 3624 is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Steven Wasylchak


2/23/05

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